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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,165	09/19/2000	Kohei Abe	197336US2S	5491
22850	7590	10/02/2003	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			DANG, KHANH NMN	
		ART UNIT	PAPER NUMBER	
		2181		
DATE MAILED: 10/02/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/665,165

Applicant(s)

ABE, KOHEI

Examiner

Khanh Dang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 8/19/2003 amendment.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 8, the essential structural cooperative relationships between the "first storage area," "second storage area," and "controller" have been omitted, such omission amounting to a gap between the elements. See MPEP § 2172.01.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Hauser et al.

As best the Examiner can ascertain from the language of the claims, these claims do not define any structure/method that differs from Hauser et al.

With regard to claims 1 and 8, Hauser et al. discloses a queue control device for ATM comprising a "first storage area" (cell buffer 128, Fig. 4) for storing a first queue (see Fig. 6, for example) including a plurality of "elements" (cells) having an "address" (cell number) specifying the next "element" (cell), and a "second queue" (see Fig. 6, for example) including a plurality of "elements" (cells) having an "address" (cell number) specifying the next "element" (cell); a "second storage area" (RAM 132, 1140, 2142) for storing "first pointer information" (queue 1 descriptor, Fig. 6, for example) and "second pointer information" (queue 2 descriptor, Fig. 6, for example), the "first pointer information" being a "head address" (head) in the first queue, and the "second pointer information" being a "tail address" (tail, Fig. 6); and a "controller" (queue manager 308, Fig. 4, for example) for controlling the "first and second storage areas" (cell buffer 128 and pointer RAM 132, 1140, 2142) to set not only an address specifying the head element in the second queue in the tail element in the first queue stored in cell buffer 128 but also an address specifying the tail element in the first queue in the tail element in the second queue and for controlling the first and second queues according to queue 1 and 2 descriptors stored in pointer RAM 132, 1140, 2142. In other words, in Hauser et al., one queue number is able to point to a second queue number, and the list descriptor holds the queue number of the first entry, or head, of the list and the last entry, or tail, of the list. The queue number of the head of the list is used to index into the list pointers and read the queue number of the second entry in the list. Likewise, the queue number of the second entry is used to index into the list pointers and read the queue number of the third entry, and so on until the queue number read is equal to the

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queue number of the last entry, or tail of the list. Therefore, it is clear that in Hauser et al., in order to add a queue to a list, the queue number of the queue being added to the list is written to the list pointer location indexed by the present tail of the list. That is when queue 2 is added for immediate transmission to the list, the address of the head of queue 2 is written to the present tail of queue 1. Also, since queue 1 and queue 2 share the same transmission channel and buffer pool 128, the address specifying the tail of queue 1 is also the address of the tail of queue 2 after all cells of queue 1 are transmitted out. The queue manager 308 controls queue 1 and queue 2 according to the head and tail stored in RAM 132, 1140, 2142.

With regard to claims 2, 3, 9, and 10, in Hauser et al., it is clear that when queue 1 is not present the address of the head of queue 2 is stored in RAM 132, 1140, 2142 is set in queue 1 descriptor, since queue 1 and queue 2 share the same transmission channel and pool buffer. In addition, it is clear that an indicator must be placed in the address of the tail of queue 2 indicating that the tail of queue 2 is the last one to be transmitted in the absence of queue 1. And vise versa.

With regard to claims 5 and 11, if there is no other special priority is set forth in the cell and list managers, and in view of the work flow mentioned above, it is clear that queue 1 is assigned a higher priority for transmission.

With regard to claims 6 and 12, it is clear that with any known ATM (Asynchronous Transfer Mode) including the ATM used in Hauser et al., cell buffer can store a plurality of virtual channel according to each of the cells.

With regard to claims 7 and 13, the cell manager 308 is connected to the cell processor 302 which produce virtual channels.

With regard to claims 14-18, one practicing the queue control device set forth by Hauser et al. and specifically discussed above would have performed the same steps recited in claims 14-18.

### ***Response to Arguments***

Applicant's arguments filed 8/18/2003 have been fully considered but they are not persuasive.

At the outset, Applicants are reminded that claims subject to examination will be given their broadest reasonable interpretation consistent with the specification. *In re Yamamoto*, 740 F2.d 1569, 1571, 222 USPQ 934, 936 (Fed. Cir. 1984). Applicants are also reminded that claimed subject matter not the specification, is the measure of the invention. Disclosure contained in the specification can not be read into the claims for the purpose of avoiding the prior art. *In re Sporck*, 55 CCPA 743, 386 F.2d, 155 USPQ 687 (1986).

With this in mind, the discussion will focus on how the terms and relationships thereof in the claims are met by the references. Response to any limitations that are not in the claims or any arguments that are irrelevant and/or do not relate to any specific claimed language will not be warranted.

**The 112 rejection:**

Applicants have not provided any essential structural cooperative relationships between the “first storage area,” “second storage area,” and “controller.” Broad terms such as connected or operatively connected (for example) can be used to overcome the rejection.

**The Hauser et al. rejection :**

With regard to claims 1, 8, and 14 (with claims 2-7, 9-13, and 15-18 stand or fall together), it is clear that in Hauser et al., in order to add a queue to a list, the queue number of the queue being added to the list is written to the list pointer location indexed by the present tail of the list. That is when queue 2 is added for immediate transmission to the list, the address of the head of queue 2 is written to the present tail of queue 1. Also, since queue 1 and queue 2 share the same transmission channel and buffer pool 128, the address specifying the tail of queue 1 is also the address of the tail of queue 2 after all cells of queue 1 are transmitted out. From at least Fig. 6, for example, it is clear that the head address of queue 2 is stored in a tail element of queue 1, and the tail address of queue 1 is stored in a tail element of queue 2.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Khanh Dang at telephone number 703-308-0211.

*Khanh Dang*

**Khanh Dang  
Primary Examiner**